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SIPDIS

STATE PASS TO USTR POSNER, MOWREY AND RHODE

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TAGS: [EFIN](#) [SP](#) [ETRD](#) [EU](#) [WTO](#) [USTR](#)

SUBJECT: Spanish Customs Administration

REF: State 42299

¶1. This cable contains responses to reftel cable re: EU member state customs regimes. Responses are queued to questions listed in reftel para 6. We collected the information during routine visits with Customs and business contacts.

¶1A. CUSTOMS PROCEDURES The formal procedure is comprised of two steps, each with its respective time period. The first step begins upon the arrival of goods from outside the EC, at which time the importer has twenty-four hours to make a summary declaration of the goods. Many importers provide this declaration even before their goods arrive in a Spanish port or airport to help speed up the process. The summary is transmitted electronically to a central office, where the information is reviewed. The Customs Administration does a risk analysis of the goods, and color-codes the imports according to their degree of risk. About 80% of the goods are marked "green" and are released into the stream of commerce without any additional review. The next status is "orange," which requires further examination of documents and later will be marked "green" or "red." Approximately 10% of goods are labeled "orange," primarily for sanitary and phytosanitary concerns. The other status is "red" (roughly 5% of goods), which requires the examination of both documents and goods.

The second step involves a more specific declaration of the goods imported and includes a declaration of value and destination. The time limit on this step varies depending on whether the goods arrive via air or sea. If the goods arrive by air, the importer has twenty days to make a declaration, while goods that arrive by sea have a more generous time period of forty-five days. There are three points in time when Customs may choose to reevaluate its valuation: 1) when Customs is initially reviewing documents for an orange or red status shipment; 2) during subsequent office reviews of documents for green status shipments that have already entered; and 3) after Customs does routine annual on-site inspections.

¶1B. APPEALS PROCESS If the importer wants to appeal the decision of Customs authorities, especially in the case of a discrepancy in the valuation of customs duties, then the appeal would be directed at the Tax Collection Department (Departamento de Recaudacion) of the Tax Administration (Administracion Tributaria). This is the only part of the Tax Administration empowered to hear claims and make reimbursements. Importers have two appeals—the decision on the first appeal must be made within 15 days. If the importer chooses to appeal a second time, the Collection Department must review within 15 days. If the importer is still not satisfied, he can then take the decision to court. If the claim is not resolved after exhausting national means, the appeals process can be taken to the European level, but most appeals are solved within the Department.

¶1C. See response to question A.

¶1D. PENALTIES Customs tax fraud is considered to be the incomplete disclosure in the declaration to customs authorities. Penalties fall into the following three categories depending on the gravity of Customs law violations: minor, severe, and very severe. The penalty is always issued as a fine, which depends on the degree of the violation. If the fines total more than 30,000 euros (\$36,900 at exchange rate of 1.23), then authorities can impose additional non-monetary sanctions.

¶1E. RECORDS Spanish Customs retains records for four years—the law requires them to retain records for three years for customs purposes, but for four years for Value Added Tax records. The three years leeway allows Customs authorities the possibility to review records, and subsequently collect customs duties that were insufficient.

¶1F. GUIDANCE Exporters can request guidance from Spanish Customs if they have any uncertainties over classification and evaluation of goods. The exporter simply submits a form to Customs authorities. Customs authorities usually respond in 15 days (however it can take up to 2 months depending on the number of requests they receive). If the exporter does not agree with Customs, then he has the opportunity to make

an appeal within fifteen days.

1G. EU MEMBER STATES In theory all Customs of the member states should operate in the same manner. However, business contacts and Spanish officials say Dutch Customs are less stringent than their Spanish counterparts. A business contact told us that Spanish Customs is comparable to the authorities in Italy and Greece. For the most part, our business contacts were not aware of discrepancies in customs duties in different member states, however we are aware of one American company that has been unable to resolve a Spanish Customs valuation that differs from the valuation in another member state.

12. Spanish Customs and the Tax Collection Department are the only two departments under the Spanish Tax Administration that are involved with customs regulations. The Tax Administration is part of the Spanish Treasury Department.

13. In 1995, Spain began incorporating information technology into its customs procedures. Now, at least according to Spanish Customs authorities, Spain's Customs Department is the most technologically advanced of the EU-15 member states. A business contact confirmed that the system is completely electronic and works smoothly. Spanish Customs Agents also claim that Spain's customs procedures are stricter than countries with larger volumes of imports, such as Holland, Belgium, and Sweden (our Customs contacts referred to Holland as the "colander of Europe"). Despite the stringent process, Spain's Customs Department seems to function efficiently as information is processed electronically and centrally. Spain has also made the process more efficient by making arrangements with importers from reputable multinational companies. In this preferential agreement, companies make a guarantee payment of customs duties, and their goods are released immediately into the stream of commerce. They are billed monthly for customs duties.

ARGYROS